

REMARKS

Reconsideration of all grounds of rejection and allowance of all the claims are respectfully requested in light of the above amendments and the following remarks. Claims 1-24 are pending herein. Claims 1, 3, 8, 10, 15, 17 and 22 are independent claims.

At the outset, Applicant notes with appreciation the indication in the Office Action that claims 3, 5, 10, 12, 17 and 19 recite allowable subject matter. Applicant respectfully submits that allowable claims 3, 10, and 17 have been rewritten in an independent form containing all the limitations of their base claim and any intervening claims. Applicant respectfully submits that claims 4, 5, 7, 11, 12, 14, 18, 19 and 21 are also allowable at least for their dependency from an allowable base claim.

Claim 2 as been amended to overcome the objection thereto.

Claims 1, 8, 15 and 22 stand rejected under 35 U.S.C. §102(e) as allegedly anticipated by Nelson *et al.* (U.S. Pat. Appln. Pub. No. 2003/0060224) (herein after "Nelson"). Claims 2, 4, 6, 7, 9, 11, 13, 14, 16, 18, 20-21 and 23-24 stand rejected under 35 U.S.C. §103(a) over Nelson in view of Chen *et al.* (U.S. Pat. Appln. Pub. 2003/0134655) ("herein after "Chen"). Applicant respectfully traverses these grounds of rejection for the reasons indicated herein below.

With regard to the rejections under 35 U.S.C. §102(e), claims 1, 8 and 15 have been amended to recite in part:

wherein said adjusting the transmit power of said mobile terminal is synchronized with those of other terminals assigned within a same time slot for simultaneous adjustment, and wherein the value of the transmit power of said mobile terminal and said other terminals assigned within the same time slot are simultaneously calculated.

Support for the above amendment to claims 1, 8 and 15 is found in the specification at least at page 4, paragraph [0073].

Applicant respectfully submits that independent claims 1, 8 and 15 now recite that the adjustment of the transmit power of a mobile terminal and other terminals assigned within the same slot occurs simultaneously, as does the calculating of the value of the transmit power. The simultaneous adjustment reduces variances of the interference signal level that occurs when mobile terminals have their transmit power individually adjusted by the mobile station, as the power adjustment of each mobile terminal can affect the signal-to-interference (SIR) of other terminals (page 1, paragraph [0020]).

In contrast, Nelson (or Nelson and Chen) fails to disclose, suggest, or otherwise render obvious the claimed invention, as Nelson fails to disclose simultaneous calculating of the value of the transmit power and the simultaneous adjustment of the transmit power. In fact, Nelson clearly discloses at page 4, paragraph [0051], that the provision of multiple time slots makes it "less likely that two randomly transmitting field units will transmit a message in a same time slot", and the "synchronization" disclosed at paragraph [0051] is to ensure that there are not simultaneous transmissions.

Moreover, referring to the flowchart of FIG. 9 of Nelson for setting a power level of a field unit, this reference is completely silent regarding a simultaneous calculation or adjustment occurring.

In accordance with MPEP 2131, under 35 U.S.C. §102, according to the United States Court of Appeals for the Federal Circuit, a "claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference" (*Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d

628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) (emphasis added)). Therefore, to reject a feature, which is alleged to patentably distinguish the claim containing such feature, as being anticipated by a prior art, the Office Action must establish that the same feature is present in the prior art reference. As Nelson fails to disclose each and every element as set forth in claims 1, 8 and 15 these claims are not anticipated by the reference.

With regard to independent claim 22, said claim has been amended to recite in part subject matter from allowable claims in that the power information received by the base station includes a transmit power calculated according to the formula recited in claims 3, 10 and 17. Thus, the amendment to claim 22 is supported at least by originally filed claims 3, 10 and 17 and the specification at page 3, paragraph [0057]. For at least the aforementioned amendment, Applicant respectfully submits that claim 22 is not anticipated by Nelson and is allowable. In addition, claims 23 and 24, which depend from claim 22, are also allowable at least for their dependency from claim 22.

Reconsideration and withdrawal of all grounds of rejection under 35 U.S.C. §103(e) are respectfully requested.

With regard to the rejections under 35 U.S.C. §103, Applicant respectfully submits that the combination of Nelson and Chen still fails as a combination even to render any of the independent claims 1, 8, 15 and 22 obvious, and thus all claims dependent therefrom are allowable as well. Applicant respectfully further submits that the claims rejected under 35 U.S.C. §103(a) are also allowable because of a separate basis for patentability. Accordingly, individual consideration of all the claims on their own merits is respectfully requested.

Nor would the combination of elements, as recited in claims 1, 8, 15, 22 and all claims dependent therefrom, have been obvious at the time of invention in view of Nelson and Chen and/or as being within the ordinary level of skill in the art (*KSR International v. Teleflex*, 127 S.Ct. 1727, 82 USPQ2d 1385 (2007)). Accordingly, neither the combination of references, and/or the level of skill in the art would have made any of the present claims obvious under 35 U.S.C. §103(a).


A check in the amount of \$630 is enclosed herewith for three additional independent claims.

For all the foregoing reasons, it is respectfully submitted that all the present claims are patentable in view of the cited references. A Notice of Allowance is respectfully requested.

Respectfully submitted,

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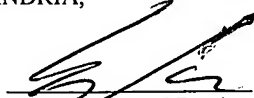

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